

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2001- 852

May 7, 2003

PUBLIC UTILITIES COMMISSION
Standards for Billing, Credit and Collection,
Termination of Service, and Customer Information
for Eligible, Non-Eligible, and Interexchange
Telecommunications Carriers (Chapters 290, 291
and 292)

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order we deny Verizon's request for waivers of the billing format provisions of Chapters 290 and 292.

II. BACKGROUND

On December 24, 2002, Verizon filed a Petition for Waiver of Chapter 290 and 292 of the Commission's Rules as they relate to the format of Verizon's customer bills. Prior to the filing of the Petition, Verizon and Commission Staff had conducted lengthy discussions of the bill format issues. These discussions began during the summer of 2002 and included two face-to-face meetings with commissioners, Staff, and Verizon and numerous conference calls with Staff and Verizon personnel. On February 14, 2003, we issued a decision denying Verizon's request for waiver on the grounds that its draft bill did not comply with the Federal Communication Commission's (FCC) Truth-in-Billing rules,¹ which are specifically incorporated in our Rules and thus part of the requirements for compliance with Chapter 290.² We identified two specific areas of concern: (1) the bill was confusing and did not allow a customer to readily identify the type or cost of service being provided; and (2) several surcharges and credits were misplaced on the bill. We directed Verizon to meet with Staff as soon as possible to make the necessary changes to bring the bill into compliance with our Rules.

On March 26, 2003, Verizon submitted a second proposed bill for our consideration. On April 15th, we deliberated the new bill but did not reach a final decision. We first found that the new bill addressed, with a few minor exceptions which were later corrected, our concerns relating to surcharges and credits. Verizon's new bill

¹47 C.F.R. §§ 64.2400 – 2401.

²Chapter 290 § 12 (F) and Chapter 292 § 10(B).

did not, however, completely satisfy our concerns relating to customer confusion and bill organization.³ Specifically, the bill continued to intermingle toll charges under two different headings that were intended to reflect usage-based calls and non-basic recurring charges. The bill continued to use headings such as “Verizon Calls” which did not give the reader any indication of the type of service being depicted.

Rather than deny Verizon’s waiver during the April 15th deliberative session, Commissioner Diamond proposed several changes which, if made, would satisfy his concerns. He specifically proposed that Verizon either: (1) add an additional summary page which included three categories entitled “Basic,” “Toll,” and “Optional” and which would show the total charges (including all surcharges and taxes) associated with the three categories of service; or (2) add a subcategory under its Non-basic summary on the last page of the bill which would depict the total charges associated with toll service. We directed Verizon to consider the proposal and to consult with Staff concerning the feasibility of the changes.

On April 18th, Staff and Verizon participated in a conference call. Verizon informed Staff that it would be unable to make the changes proposed by Commissioner Diamond without spending considerable time and money to reprogram its computers. Verizon indicated that it was unwilling to spend the resources to comply with the Rules because it believed that it was already in compliance with the Rules.

On April 29, 2003, Commissioner Diamond requested that Staff inquire as to whether Verizon would be able to make the following changes: (1) change the ITEMIZED CALLS heading to LONG DISTANCE CALLS (or some very similar equivalent); (2) move the marginal statement concerning recurring charges and the average rate per minute to the bottom of the section and/or increase the font size of the note; and (3) capitalize the Pay Per Use Services heading. Staff discussed the matter with Verizon and was informed that it may be possible to change the names of the subheadings as well as the font of the marginal note but that it would not be possible (without incurring substantial expense) to move the note.

III. DECISION

As we noted in our February 14th Order, the FCC’s rules require that the presentation of charges on a telephone bill be:

...sufficiently clear...that customers can accurately assess that the services for which they are billed correspond to those that they have requested and received, and the costs assessed for those services conform to their understanding of the price charged.

³Commissioner Welch believed the bill did address the customer confusion and organization issues.

64 C.F.R. § 2401(b). We interpret this section to require a bill to allow customers to readily calculate the costs associated with a particular type of service as well as readily identify the types of services being provided.

We continue to find that the bill proposed by Verizon (a copy of which is attached) is confusing and does not allow a customer to readily identify the type or cost of service being provided. Toll charges are intermingled with optional charges under headings which do not logically identify the type of call.⁴ Services are categorized not by type (toll v. optional) but by whether they are usage-based or recurring. Customers cannot see the total charges associated with toll service in one place and calculating their total costs for toll service, let alone their true average cost per minute, is difficult. Even the marginal note on page 3 of the bill, which is designed to alleviate these problems is, as the Public Advocate argues, of limited effectiveness given its placement in the margin and small font size.⁵

Verizon maintains that the organization of its bill reflects what customers want and that the bill is not confusing. However, its waiver request contains absolutely no empirical evidence that its proposed bill will enable customers to “accurately assess ... the services for which they are billed” and determine that “the costs assessed for those services conform to their understanding of the price charged.”⁶ Should Verizon wish to contest this matter further, it would be well advised to use a focus group process in which Verizon customers would be asked questions to test both their actual and perceived level of understanding of the bill. We would recommend that any such process be carried out in consultation with our staff and the Public Advocate to maximize the likelihood that all parties will agree on the validity of the results.

Because we find that Verizon’s bill is still confusing and that customers are unable to readily determine the amounts they are paying for different types of services, we deny Verizon’s request for a waiver of Chapters 290 and 292. We find that Verizon has not demonstrated “good cause” for the waiver.

Verizon must work to bring its bill in compliance with our Rules or risk being found in violation of the Rules. As guidance for what actions Verizon might take to meet the requirements of our Rules, we suggest the following alternatives, some of which involve only modest changes to Verizon’s proposed bill:

⁴Usage sensitive charges are listed under the heading “Verizon Calls” while monthly recurring charges are listed under “Verizon Other Charges and Credits.”

⁵ Another problem with the marginal notation, as it pertains to the average price per minute, is that Verizon does not intend to provide this information in situations in which the customer does not use all the minutes associated with a plan contain a recurring charge.

⁶ A problem with this case is that it turns on what a typical customer will be able to understand from reading the proposed bill. Unfortunately, neither the parties to the case nor those of us called upon to decide it are typical customers. While we find it instructive that members of the staff of the Commission and of the Office of the Public Advocate who deal with consumers on a regular basis view the bill as failing to reasonably convey the information required by our rule, a more scientific test might well be the best way to resolve this matter.

- (1) The surest way to compliance would be for Verizon to reorganize its bill completely such that there are three distinct sections (basic, toll, and optional) and within each section all charges, surcharges, and taxes are itemized and totaled;
- (2) A second means of compliance would involve creation of a new section of the bill which would provide a summary of the totals for basic, toll and optional services;
- (3) A third means of compliance would require Verizon to create a sub-category under the Non-Basic line on its summary page which would break out the subtotal for all charges associated with toll services; and
- (4) A fourth approach to compliance would require Verizon to: (a) change the ITEMIZED CALLS heading to LONG DISTANCE CALLS (or some very similar equivalent); (b) increase the font size of the marginal note; and (c) to increase the font size and capitalize the Pay Per Use Services heading to make it clear that these items are separate from the long distance calls.

Verizon must file a plan explaining how it intends to comply with this Order no later than May 31, 2003.

IV. ORDER

For the reasons explained above, we deny Verizon's Petition for Waiver and order Verizon file its compliance plan by May 31, 2002.

ORDERED

Dated at Augusta, Maine, this 7th day of May, 2003.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Nugent
 Diamond

COMMISSIONER VOTING AGAINST: Welch (see attached dissent)

Dissent of Chairman Thomas Welch

I dissent. While I agree with my colleagues that the Verizon bill falls far short of the level of intelligibility and coherence that one might expect from a company whose profitability depends upon consumer acceptance of its products, I have concluded that the revisions to the bill proposed by Verizon sufficiently address the issues that previously led me to conclude that the bill violated our rules.

In particular, our rules (which incorporate the FCC's truth in billing standard) require that the bill show clearly how much of the total bill relates to basic service, and thus inform the customer of the amount that must be paid to avoid disconnection of basic service. The revised Verizon bill does that. The rules also require that the cost of each service be separately stated. The Verizon bill does that as well. Finally, while I am not persuaded that the rules clearly require it, the Verizon bill (as proposed) would permit a customer to identify how much of the bill is related to toll services, and the per minute cost of those toll services (taking into account any monthly fees associated with toll plans). This feature is important as it permits relatively easy comparison of various toll alternatives. Much as we might desire greater clarity, or a more logical format, or less confusing brand names, I do not believe that our rules require Verizon to do more.

Because the proposal by my colleagues for further changes to the bill would, in my view, improve the clarity of the bill, I would find a bill with those changes incorporated also to comply with our rules. I express no opinion on whether a "focus group" or other consumer survey device to address the clarity of Verizon's bill would contribute useful information to the Commission; the value of such an effort would depend heavily its design and execution.